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VAUGHAN AND OTHERS v. VAUGHAN'S EXECUTRIX.—Decided at Wytheville, July 6, 1899.—*Riely, J.*

1. **WILLS**—*Case in judgment—Devise to wife and "my children"—Motive for gift—Children.*—A testator, by his will, declares: "I do hereby bequeath to my wife, Emma Lee Vaughan, and to my children all of my property of every kind, real and personal, and do hereby appoint my wife my sole executrix, without security, as long as she shall remain my lawful widow; should she marry again, the minor children to choose guardians, and my wife, in that event, to take a child's part, to be hers as long as she lives, and at her death to be distributed amongst my children then living. I further request that no appraisement or other expense be made."

Held:

1. The wife takes a fee-simple in the whole of the real estate and the absolute title to whole of the personal property, liable to be defeated, "should she marry again;" the children being mentioned as the motive for the gift. The words "her children," "our children" and "my children" when used as here mean substantially the same.

2. Upon marriage of the widow her estate is cut down to a life estate in a child's part of the estate, real and personal, and the remainder in such child's part passes to the children of the testator living at the death of the widow, and excluding the descendants of such children as may die between the marriage and death of the widow. The word "children" as here used means immediate offspring.

3. The residue of the property, real and personal, after deducting a child's part for the widow, in the contingency provided for is to be "divided equally among the children of the testator then living and the descendants of any that may be dead, such descendants to take *per stirpes*."

PRICE v. WALL's EX'OR.—Decided at Wytheville, July 6, 1899.—

Harrison, J.:

1. **RECORDING ACTS**—*Unrecorded deed—Creditors—Section 2463 of Code—Subsequent.*—An unrecorded deed is void as to all creditors who, but for the deed, would have had a right to subject the property conveyed to their debts, whether such debts were contracted before or after such deed. The word "subsequent" in section 2463 of the Code applies to purchasers only.

2. **JUDGMENTS**—*Exchange of lands—Failure to record deed.*—If upon an exchange of lands the parties execute mutual conveyances, but the grantee of one tract fails to record his deed, a judgment against his grantor binds the land so given in exchange as well as that received in exchange. The rights of the parties are not affected by the character of the consideration for the unrecorded deed.

KANE v. VIRGINIA COAL AND IRON CO.—Decided at Wytheville, July 6, 1899.—*Keith, P. Absent, Riely, J.:*

1. **CHANCERY JURISDICTION**—*Cloud on title—Party out of possession—Adequate remedy at law—Case in judgment.*—Equity will not take jurisdiction of a bill to remove clouds on the title to real estate where the complainant has the legal title